

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SPACE DATA CORPORATION,) CV-16-3260-BLF
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) MAY 17, 2018
)
ALPHABET INC AND GOOGLE LLC,) PAGES 1-12
)
DEFENDANT.)
)
_____)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE BETH LABSON FREEMAN
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF: **BY: SPENCER HOSIE**
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TRANSAMERICA PYRAMID
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SAN FRANCISCO, CA 94111

FOR THE DEFENDANT: **BY: LEAH PRANSKY**
MATTHIAS KAMBER
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OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

SAN JOSE, CALIFORNIA

MAY 17, 2018

P R O C E E D I N G S

(COURT CONVENED AT 9:21 A.M.)

THE CLERK: CALLING CASE 16-3260. SPACE DATA
CORPORATION VERSUS ALPHABET INC. AND GOOGLE, LLC.

COUNSEL, PLEASE COME FORWARD AND STATE YOUR APPEARANCES.

MR. HOSIE: GOOD MORNING, YOUR HONOR.

SPENCER HOSIE, HOSIE RICE, APPEARING FOR THE PLAINTIFF
SPACE DATA.

THE COURT: GOOD MORNING.

MS. PRANSKY: GOOD MORNING, YOUR HONOR.

LEAH PRANSKY ON BEHALF OF DEFENDANTS GOOGLE AND ALPHABET.
AND WITH ME IS MY COLLEAGUE MATTHIAS KAMBER.

THE COURT: ALL RIGHT. THIS IS THE PLAINTIFF'S
MOTION FOR SUMMARY JUDGEMENT ON A FAIRLY NARROW POINT. I DO
WANT TO HEAR ARGUMENT ON THIS.

LET ME JUST START BY SAYING THAT I ACTUALLY AGREE WITH THE
PLAINTIFF THAT JUDICIAL ESTOPPEL IS AVAILABLE. I KNOW THAT --
I THOUGHT THE PARAMOUNT AND KELLOGG CASES WERE INTERESTING, BUT
I'M SATISFIED THAT UNDER THE NINTH CIRCUIT LAW, WHICH THE
CIRCUIT LAW WOULD BE APPLIED TO THIS ISSUE EVEN IF THE FEDERAL
CIRCUIT WERE ULTIMATELY THE APPELLATE DECISION MAKER, THAT
JUDICIAL ESTOPPEL IS AVAILABLE.

THAT WAS THE GOOD NEWS FOR YOU, MR. HOSIE. WELL, THAT'S
THE WAY IT GOES. I DON'T ACTUALLY SEE THAT CLEAR AND

09:23:06 1 UNMISTAKABLE STATEMENT THAT THE LAW REQUIRES FOR A JUDICIAL
09:23:10 2 ESTOPPEL.

09:23:12 3 I CERTAINLY THINK THAT IN THE FUTURE, YOU MIGHT MORE
09:23:19 4 CLEARLY BE ABLE TO ARGUE IT, BUT WE ARE AT THE INITIAL
09:23:23 5 INFRINGEMENT CONTENTION STAGE, AND SO I LOOKED AT WHAT GOOGLE
09:23:32 6 ARGUED ON THE CAMPBELL REFERENCE, AND IT WASN'T CLEAR AND
09:23:40 7 UNMISTAKABLE TO ME THAT AN ESTOPPEL SHOULD ISSUE ON THOSE
09:23:44 8 REPRESENTATIONS.

09:23:45 9 I AGREE WITH YOU THAT STATEMENTS TO THE PTO WOULD QUALIFY.
09:23:49 10 SO, YOU KNOW, I WAS REALLY IN LINE WITH YOUR LEGAL ANALYSIS,
09:23:53 11 BUT OF COURSE ON THE FACTS, IT'S JUST REALLY A MATTER -- AND SO
09:23:57 12 ACTUALLY WHAT I WOULD BE LOOKING AT HERE IS DENYING IT BECAUSE
09:24:00 13 YOU HAVEN'T MET YOUR INITIAL BURDEN OF SHOWING CLEAR AND
09:24:02 14 UNMISTAKABLE, NOT THAT THEY ARE DISPUTED FACTS.

09:24:06 15 AND I MEAN, ULTIMATELY, ALTHOUGH I'M NOT INVITING A
09:24:13 16 FURTHER SUMMARY JUDGEMENT MOTION, IT MAY ULTIMATELY BE AN IN
09:24:17 17 LIMINE OR TRIAL EVIDENTIARY PRECLUSION ISSUE THAT COMES UP WHEN
09:24:21 18 GOOGLE STATES ITS POSITION BEFORE A JURY.

09:24:25 19 MR. HOSIE: YOU KNOW, I APPRECIATE THE COURT'S POINT
09:24:27 20 AND WE WRESTLED WITH THIS. IT'S AN EARLY SUMMARY JUDGEMENT,
09:24:30 21 BUT WE THOUGHT IT IMPORTANT TO BRING TO THE COURT'S INTENTION.

09:24:35 22 IN TERMS OF THE INCONSISTENCY, YOUR HONOR, IT'S NOT JUST A
09:24:38 23 STATEMENT. THE CASES, INCLUDING NEW HAMPSHIRE, SPEAK OF
09:24:41 24 POSITIONS, AND IT HAS BEEN GOOGLE'S POSITION, EVERYWHERE BUT
09:24:44 25 HERE, THAT THAT PATENT IS PERFECTLY VALID.

09:24:44 1 THE COURT: I UNDERSTAND.

09:24:46 2 MR. HOSIE: AND THE ONLY PLACE IT'S INVALID, IS IN
09:24:48 3 THIS COUNTRY SIMPLY BECAUSE WE OWN IT.

09:24:50 4 HOW CAN THAT BE? THAT IS ABOUT AS INCONSISTENT AS
09:24:54 5 INCONSISTENT GETS.

09:24:55 6 THE COURT: SO THAT ARGUMENT TO A JURY WOULD HAVE A
09:24:57 7 LOT OF EMOTIONAL APPEAL. SO THAT'S WHY I HAVE TO BE CAREFUL AT
09:25:01 8 THE LEGAL LEVEL WHETHER I LET YOU DO IT.

09:25:02 9 SO JUDICIAL ESTOPPEL IS VERY TECHNICAL.

09:25:06 10 MR. HOSIE: INDEED.

09:25:06 11 THE COURT: AND, YOU KNOW, CLEAR AND UNMISTAKABLE,
09:25:09 12 THAT'S PRETTY STRONG LANGUAGE.

09:25:10 13 AND THE PROBLEM THAT I HAVE WITH WHAT YOU ARE SAYING IS
09:25:13 14 THAT IT'S EMOTIONALLY COMPELLING WHAT YOU SAY, AND I THINK WHAT
09:25:17 15 YOU SAY FORMS THE FOUNDATION OF WHY WE HAVE JUDICIAL ESTOPPEL.

09:25:22 16 BUT THEN WE GO THE NEXT STEP OF THE PROOF, AND MARCHING
09:25:25 17 DOWN THE ROAD TO SEE WHERE WE LAY OUT EXACTLY THE POSITION.
09:25:29 18 AND SO THAT'S WHERE GOOGLE'S ARGUMENT ON WHAT THEY REPRESENT
09:25:35 19 ABOUT CAMPBELL, AND WHAT IT INCLUDED AND WHAT IT DIDN'T, IS A
09:25:37 20 CONCERN.

09:25:38 21 IT ALSO SEEMED TO ME, MR. HOSIE, THAT YOU WERE TAKING THE
09:25:41 22 POSITION THAT ANY IDENTIFICATION OF PRIOR ART REFERENCES IN THE
09:25:47 23 PATENT APPLICATION WOULD LEAD TO THE CONCLUSION THAT ANY
09:25:52 24 COMBINATION. AND AS WE KNOW, WE DO THE MATH ON THESE, THAT ANY
09:25:57 25 COMBINATION OF ANY OF THOSE REFERENCES IS A JUDICIAL ESTOPPEL,

09:26:02 1 EVEN IF GOOGLE DIDN'T SPECIFICALLY ARGUE NONOBVIOUSNESS BY A
09:26:07 2 PARTICULAR COMBINATION.

09:26:09 3 DID I READ THAT CORRECTLY?

09:26:11 4 MR. HOSIE: YOU DID, YOUR HONOR.

09:26:12 5 THE COURT: THAT WAS PRETTY BROAD, I THOUGHT.

09:26:16 6 MR. HOSIE: BUT IF GOOGLE FILES PATENT APPLICATIONS
09:26:18 7 HERE AND EVERYWHERE IN THE WORLD AND SAYS THERE ARE FOUR
09:26:21 8 REFERENCES, AND THEY DON'T ANTICIPATE, AND THEY DON'T RENDER
09:26:25 9 OBVIOUS, AND IF THEY DO THAT THROUGH A SWORN INVENTOR'S
09:26:29 10 DECLARATION, THAT IS A POSITION.

09:26:30 11 THE COURT: SO GOOGLE HAS ANOTHER ARGUMENT ON
09:26:32 12 INVENTOR'S DECLARATION, I DIDN'T KNOW IF THAT WAS TRUE OR NOT,
09:26:37 13 THAT IT'S MERELY A SUBJECTIVE BELIEF THAT MY INVENTION IS COOL
09:26:42 14 AND INVENTIVE AND YOU OUGHT TO IMPROVE IT.

09:26:45 15 I DON'T KNOW THAT IT'S REALLY ONLY THAT, BUT I THINK
09:26:47 16 THAT'S WHAT GOOGLE IS SAYING.

09:26:48 17 MR. HOSIE: THEY SAY THAT EXACTLY IN THE BRIEF, THEY
09:26:48 18 SAY IT'S JUST A SUBJECTIVE THAT THEY INCLUDE.

09:26:53 19 BUT YOUR HONOR, IF THEY THOUGHT REFERENCES DID ANTICIPATE
09:26:56 20 AND RENDER OBVIOUS, THEY COULDN'T MOVE THEIR PROSECUTION
09:27:00 21 FORWARD IF THEY DID. AGAIN AND AGAIN, OVER YEARS AND IN DOZENS
09:27:03 22 OF JURISDICTIONS, AND IT ONLY CHANGED IN THIS COUNTRY GIVEN OUR
09:27:06 23 RECAPTURING OF THE PATENT IN THE SUMMARY JUDGEMENT MOTION.

09:27:09 24 UNTIL JANUARY, THEY WERE PROSECUTING THIS ABROAD IN MANY
09:27:11 25 JURISDICTIONS AS A PERFECTLY PROPER GOOGLE INVENTION. EVEN

09:27:15 1 THOUGH THEY CONCEDED THAT, IN THIS COUNTRY, IT WAS OUR
09:27:17 2 INVENTION. HOW CAN THAT BE?

09:27:20 3 THE COURT: YEAH, I UNDERSTAND.

09:27:23 4 OF COURSE, I'VE NEVER BEEN TO THE PTO MYSELF, BUT IF THERE
09:27:26 5 ARE A NUMBER OF PRIOR ART REFERENCES IN THE APPLICATION, WHICH
09:27:31 6 THERE ALWAYS ARE.

09:27:32 7 MR. HOSIE: YES.

09:27:32 8 THE COURT: AND THE INVENTOR IS ARGUING TO PTO THAT
09:27:39 9 THERE IS NO -- NONE OF THESE RENDER THE INVENTION OBVIOUS OR,
09:27:45 10 NO COMBINATION RENDERS IT OBVIOUS AND NONE ANTICIPATES, YOU ARE
09:27:49 11 SAYING THAT THAT IS, IN EFFECT, A STATEMENT THAT NO COMBINATION
09:27:55 12 OF THOSE REFERENCES.

09:27:56 13 MR. HOSIE: ONE HUNDRED PERCENT. BECAUSE THAT'S WHAT
09:27:58 14 THEY'RE SAYING. THEY ARE SAYING HERE ARE FOUR PRIOR ART
09:28:01 15 REFERENCES, AND OUR PATENT, OUR INVENTION IS PATENTABLE OVER
09:28:05 16 THESE REFERENCES.

09:28:06 17 THAT'S WHAT THEY TOLD THE EU, CHINA, BRAZIL, AUSTRALIA,
09:28:10 18 CANADA, ET CETERA. AND THAT'S WHAT THEY TOLD THE U.S. PTO
09:28:13 19 UNTIL SUDDENLY WE GOT THE PATENT BACK AND SUED THEM ON IT. SO
09:28:17 20 SUDDENLY IT WAS WHITE FOR GOOGLE AND BLACK FOR US, SIMPLY
09:28:20 21 BECAUSE WE OWNED IT.

09:28:22 22 SO YOUR HONOR, I APPRECIATE IT MAY WELL BE PREMATURE, IT'S
09:28:26 23 VERY MUCH LIKE THE MASTEROBJECTS CASE WHICH WAS BRIEFED WHICH
09:28:30 24 WE ALSO HAD SOME INVOLVEMENT IN.

09:28:32 25 THE COURT: LET ME HEAR FROM GOOGLE, BECAUSE DOWN THE

09:28:35 1 ROAD, I WANT TO UNDERSTAND THIS ISSUE, I THINK IT'S COMING
09:28:37 2 BACK.

09:28:38 3 MS. PRANSKY: THANK YOU, YOUR HONOR.

09:28:38 4 I'M GOING TO ADDRESS, FIRST, THE POINT ABOUT THE
09:28:40 5 INCONSISTENT POSITION. I WOULD LIKE TO COME BACK TO THE ISSUE
09:28:43 6 OF THE LAW.

09:28:44 7 BUT YOU ARE RIGHT THAT GOOGLE HAS MADE NO CLEAR AND
09:28:47 8 UNMISTAKABLE INCONSISTENT POSITION IN THIS CASE WITH WHAT IT
09:28:50 9 TOLD THE PTO.

09:28:52 10 WHAT IT TOLD THE PTO IS THAT CAMPBELL DID NOT DISCLOSE
09:28:55 11 USING ALTITUDE ADJUSTMENTS TO CONTROL THE HORIZONTAL POSITION
09:28:59 12 OF THE BALLOON. AND THAT'S WHAT GOOGLE HAS SAID IN ITS
09:29:03 13 INVALIDITY CONTENTIONS. IT'S DIRECTLY CONSISTENT WITH ITS
09:29:05 14 ARGUMENT IN THIS CASE.

09:29:06 15 NOW SPACE DATA TRIES TO TAKE GOOGLE'S PROSECUTION OF THE
09:29:09 16 PATENT AND TURN THAT INTO OTHER AFFIRMATIVE ARGUMENTS AS TO
09:29:13 17 OTHER ART. AND THAT'S JUST NOT WHAT THOSE REPRESENTATIONS ARE.

09:29:18 18 SPACE DATA DOES NOT UNDERSTAND WHAT AN IDS IS AND IT
09:29:22 19 DOESN'T UNDERSTAND WHAT THE INVENTOR'S DECLARATION IS AND IT
09:29:25 20 TRIES TO TIE THOSE TOGETHER.

09:29:27 21 THE COURT: I THINK MR. HOSIE PROBABLY UNDERSTANDS
09:29:28 22 PERFECTLY WELL.

09:29:29 23 MR. HOSIE: I WOULD LIKE TO THINK I DO.

09:29:30 24 MS. PRANSKY: WELL, SPACE DATA SAYS AN INVENTOR'S
09:29:33 25 DECLARATION IS AN AFFIRMATION THAT THE ART LISTED IS NOT

09:29:35 1 DISABLING, THAT IT DOESN'T ANTICIPATE OR RENDER OBVIOUS THE
09:29:39 2 CLAIMS.

09:29:39 3 THE COURT: SO THAT'S A BIG STATEMENT TO -- AND
09:29:41 4 THAT'S WHY I WAS CONCERNED, BECAUSE IN MANY OF THESE PATENTS,
09:29:46 5 THE LIST OF PART REFERENCES CAN BE AS LONG AS YOUR ARM.

09:29:49 6 AND SO THEN TO SAY TO ALL FUTURE PATENT APPLICANTS, PUT ON
09:29:55 7 THEM ESSENTIALLY, THE BURDEN OF RUNNING AN OBVIOUSNESS ANALYSIS
09:29:58 8 OF EVERY COMBINATION. SO IF THERE ARE FIFTY PRIOR ART
09:30:02 9 REFERENCES, I CAN'T DO THE MATH IN MY HEAD, BUT THE NUMBER OF
09:30:07 10 COMBINATIONS IS EXPONENTIAL. AND THAT DOESN'T SEEM TO BE
09:30:11 11 CORRECT.

09:30:14 12 GIVING AN EXAMPLE OF FOUR, IS ALMOST, I THINK IT OBSCURES
09:30:20 13 THE REAL PROBLEM WITH THAT KIND OF ARGUMENT, BECAUSE IT'S SO
09:30:24 14 FEW. AND I DON'T KNOW HOW MANY THERE WERE IN THIS CASE, BUT
09:30:27 15 IT'S A BIG -- BUT IT'S A BIG STATEMENT ABOUT WHAT
09:30:31 16 REPRESENTATIONS OF OVERLY PRIOR ART REFERENCES MEAN.

09:30:37 17 SO I HAVE TO LOOK AT THIS FROM THE PERSPECTIVE OF THERE
09:30:40 18 BEING FIFTY. AND WE ALL KNOW PATENTS LIKE THAT. AND YOU KNOW,
09:30:43 19 IF THERE ARE FIFTY PRIOR ART REFERENCES, MAYBE THAT'S A GOOD
09:30:45 20 SIGN THAT IT'S HEADED FOR NOWHERE. BUT I DON'T KNOW, I'M SURE
09:30:50 21 PLENTY GET ISSUED.

09:30:51 22 SO THAT'S, YOU KNOW, I MEAN I THINK YOU REALLY HAVE ME ON
09:30:54 23 THAT ARGUMENT IS THAT IT JUST -- THAT'S TOO BIG A STATEMENT TO
09:30:58 24 MAKE.

09:30:58 25 MS. PRANSKY: I THINK THAT'S TRUE, YOUR HONOR.

09:31:00 1 AND I'M NOT SURE WHERE THE NUMBER FOUR COMES FROM, I'M
09:31:03 2 LOOKING AT SPACE DATA'S BRIEF RIGHT NOW, AND THEY HAVE AT LEAST
09:31:06 3 LISTED AT LEAST 15 HERE. AND --

09:31:09 4 THE COURT: WE JUST HAVE TO LOOK AT THE FACE OF THE
09:31:11 5 PATENT, THAT WILL TELL US, WON'T IT?

09:31:13 6 MS. PRANSKY: I'M NOT SURE IF ALL OF THE REFERENCES
09:31:15 7 LISTED IN THE IDS ACTUALLY APPEAR ON THE FACE OF THE PATENT,
09:31:18 8 THAT MAY BE TRUE, BUT THERE ARE TWO IDS STATEMENTS IN THIS
09:31:21 9 CASE.

09:31:21 10 BUT I THINK THE OTHER ISSUE ABOUT THE IDS STATEMENTS IS AN
09:31:25 11 INVENTOR DOESN'T HAVE AN OBLIGATION TO GO OUT AND SEARCH FOR
09:31:28 12 PRIOR ART, AND IT DOESN'T HAVE AN OBLIGATION TO GO TO THE PTO
09:31:31 13 AND SAY, I HAVE LOOKED AT ALL THE PRIOR ART, I'VE ANALYZED IT
09:31:34 14 AND I KNOW THAT THESE CLAIMS ARE NOT OBVIOUS OR NOT. THE
09:31:36 15 INVENTOR HAS AN OBLIGATION TO, IF THEY KNOW A PRIOR ART THAT
09:31:41 16 THEY THINK MIGHT BE MATERIAL TO PATENTABILITY, PUT IT IN FRONT
09:31:44 17 OF THE PTO SO THE EXAMINER CAN MAKE THAT DECISION.

09:31:47 18 AND SO WHEN YOU LIST SOMETHING ON AN IDS UNDER 37 CFR 156,
09:31:54 19 YOU ARE ACTUALLY SAYING THIS MIGHT BE MATERIAL, AND MATERIAL
09:31:56 20 MEANS THAT IT'S A PRIMA FACIE CASE OF UNPATENTABILITY.

09:32:00 21 IF YOU ACTUALLY THOUGHT THE ART HAD NO CHANCE OF RENDERING
09:32:03 22 THE PATENT OBVIOUS OR ANTICIPATED, YOU WOULD HAVE NO OBLIGATION
09:32:07 23 TO PUT IT ON THE IDS AT ALL. SO IT'S NOT REALLY WHAT SPACE
09:32:11 24 DATA IS TRYING TO SAY HERE.

09:32:13 25 AND I WILL MAKE ANOTHER POINT WHICH IS THAT THE INVENTOR'S

09:32:16 1 DECLARATION IS NOT ATTACHED TO THE IDS STATEMENTS. AND THE
09:32:18 2 OBLIGATIONS UNDER 156 GO TO BOTH THE INVENTOR AND ALSO EVERYONE
09:32:24 3 ELSE WHO PARTICIPATES IN THE APPLICATION, THE LAWYERS,
09:32:27 4 ET CETERA.

09:32:27 5 THE INVENTORS DON'T NECESSARILY KNOW THE WHAT THE LAWYERS
09:32:33 6 ARE PUTTING ON THE IDS STATEMENT. AND THE IDS STATEMENT
09:32:35 7 DOESN'T GET SUBMITTED NECESSARILY AT THE SAME TIME AS THE
09:32:38 8 INVENTOR'S DECLARATION.

09:32:38 9 IN THIS CASE, FOR EXAMPLE, THERE WAS A SECOND IDS THAT GOT
09:32:41 10 SUBMITTED IN MAY, AND THE INVENTOR'S DECLARATION THAT GETS
09:32:44 11 SUBMITTED EARLIER.

09:32:45 12 AND THE INVENTOR'S DECLARATION IS REALLY NOT A DECLARATION
09:32:48 13 ABOUT NOVELTY, IT'S A DECLARATION ABOUT INVENTORSHIP. I
09:32:51 14 ACTUALLY PARTICIPATED IN CONCEIVING OF THESE THINGS. I
09:32:54 15 ACTUALLY WAS IN THE LAB, I WASN'T A BYSTANDER, I WAS WORKING ON
09:32:58 16 THIS. I DIDN'T DERIVE IT FROM SOMEBODY ELSE. I WAS THERE
09:33:01 17 DOING THIS INVENTION. IT'S NOT ABOUT REPRESENTING THEM AS
09:33:04 18 NOVEL.

09:33:04 19 THE COURT: RIGHT, RIGHT.

09:33:06 20 SO YOU WANTED TO COME BACK TO THE ISSUE OF THE LAW. I
09:33:09 21 DON'T KNOW THAT I'M GOING TO ACTUALLY NEED TO RESOLVE THAT
09:33:11 22 ISSUE. I WOULD DECLINE TO RULE ON IT AT THIS POINT FORMALLY,
09:33:17 23 I'VE GIVEN YOU MY THOUGHTS ON IT.

09:33:19 24 AND WHAT I THINK I'M GOING TO DO IN THIS CASE IS TO MAKE A
09:33:24 25 FAIRLY SIMPLE FINDING THAT, AT THIS JUNCTURE, SPACE DATA HAS

09:33:28 1 NOT MET ITS MOVING BURDEN.

09:33:30 2 AND AS I SAY, JUDICIAL ESTOPPEL CAN BE RAISED, I THINK AT
09:33:35 3 A LATER POINT, AND ALSO GOOGLE WILL BE MAKING MORE DEFINITIVE
09:33:42 4 STATEMENTS ABOUT ITS CASE IN THE FUTURE.

09:33:43 5 MR. HOSIE: INDEED, YOUR HONOR. AND THAT WILL
09:33:45 6 SHARPEN THIS DISPUTE ACUTELY.

09:33:47 7 THE COURT: IT WILL. ALL RIGHT.

09:33:48 8 MR. HOSIE: THANK YOU VERY MUCH.

09:33:48 9 THE COURT: WELL, I APPRECIATE BOTH OF YOU COMING IN.
09:33:50 10 AND MR. HOSIE, ALTHOUGH IT'S LABORIOUS TO EDUCATE ME THIS
09:33:55 11 WAY, OF COURSE HAVING YOUR JUDGE KNOW AN ISSUE IS LURKING IS
09:34:00 12 ALWAYS VALUABLE.

09:34:00 13 MR. HOSIE: THAT'S ONE OF THE REASONS WE FILED,
09:34:02 14 YOUR HONOR.

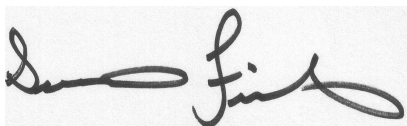
09:34:02 15 THE COURT: THANK YOU.

09:34:06 16 (THE PROCEEDINGS WERE CONCLUDED AT 9:34 A.M.)
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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 5/19/18